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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/615,197      | 07/08/2003  | Robert L. Walker     | WALKER 1            | 8026             |

7590  
John H. Thomas, P.C.  
1561 East Main Street  
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04/19/2004

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| EXAMINER |
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WRIGHT, ANDREW D

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| ART UNIT | PAPER NUMBER |
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3617

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/615,197 | <b>Applicant(s)</b><br>WALKER, ROBERT L. |  |
|                              | <b>Examiner</b><br>Andrew Wright     | <b>Art Unit</b><br>3617                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/8/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Penick, Jr. et al. (US 5,090,841). Penick shows a boat lift for raising a cradle. The lift comprises a hydraulic cylinder (66) with an extensible rod (71). When the rod is retracted it is within the cylinder (figure 2). When the rod is extended it is outside the cylinder (figure 1). The cradle (36) is in the raised position when the rod is in the retracted position (figure 2). The cylinder is always above the waterline (figures 1 and 2).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hewitt (US 6,612,775) in view of Unkle (US 6,612,775). Hewitt discloses a boat lift. First corner posts are the combination of members (16, 58, 64). Second corner posts are member (70). Longitudinal beams (50) are carried by the corner posts. Transverse beams (54, 56) are carried by the longitudinal beams. Cradle (12) is pivotally carried by

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the base. Cylinder assemblies (76) each have one end connected to the cradle at (86) and another end connected to the first post at (74). The cylinders housings (78) are the end that is connected to the posts, and at all times are above the waterline (column 3, line 51). Hewitt does not disclose bunks on the cradle. Bunks are common and well known in boat lifts for the purpose of providing a stable and non-abrasive support for the boat. Unkle, like Hewitt, shows a boat lift with a base and a pivotable cradle. Unkle shows carpeted bunks (48) on the cradle. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hewitt by adding bunks as taught by Unkle. The motivation would be to provide a stable and non-abrasive support for the boat on the lift.

5. Regarding claim 2, Hewitt shows retainers (60) that are mounted on the bracket portion (58) of the first corner posts. The retainers support the cradle in the raised position.

6. Regarding claim 3, Unkle shows that the bunks can be mounted at an angle relative to the cradle for the purpose of enhancing draining of the boat resting thereon (column 2, lines 20-21). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Hewitt by angling the bunks as taught by Unkle. The motivation would be to enhance draining of the boat resting thereon.

7. Regarding claim 4, the Hewitt actuators are bi-directional hydraulic cylinders (76).

8. Regarding claim 5, the cylinders have rods (80) that are extensible and retractable. Rotation of the cradle upward to the raised position is achieved by retracting the rod into the cylinder.
9. Regarding claim 6, the rods are completely retracted when the cradle is in the raised position (figure 1).
10. Regarding claim 7, each post has a telescoping leg (figure 1).
11. Regarding claim 8, the actuators, both cylinder housing and rod, are above the water when the cradle is in the raised position.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keesling shows a boat lift with hydraulic cylinder actuators that are above water and raise the cradle by retracting the pistons. Phillips et al. shows a pivoting cradle with angled bunks. Bulmann shows a boat lift with hydraulic cylinder actuators that are always above water.
13. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

 4/15/04